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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, DC

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Revision of Part 22 and Part 90 )  
of the Commission's Rules to )  
Facilitate Future Development )  
of Paging Systems )  
 )  
Implementation of Section )  
309(j) of the Communications )  
Act -- Competitive Bidding )

WT Docket No. 96-18

PP Docket No. 93-253

To: The Commission

**JOINT REPLY COMMENTS OF**  
**ARCH COMMUNICATIONS GROUP**  
**AND WESTLINK LICENSEE CORPORATION**

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## SUMMARY

Arch Communications Group and Westlink Licensee Corporation (the "Companies") are filing their reply to the comments on the proposed rule changes to implement a geographic area licensing plan for paging services.

The reply documents substantial support in the record for many key positions advocated by the Companies, including the following: (a) generally, site-by-site licensing should be replaced with an MTA-based auction scheme for all paging channels; (b) nationwide exclusive PCP channels, including those still under construction, should be excluded from the auction; (c) auction rules must be carefully crafted to avoid licensing delays that will inhibit the expansions of existing systems; (d) geographic area licensees should be subject to construction obligations to guard against having channels lie fallow; (e) no paging channel cap should be imposed; and, (e) the fixed mileage service and interference contours specified in Part 22 of the rules should be utilized for all 900 MHz band frequencies.

The Companies disagree with those who claim that MTAs are too big. MTAs strike a reasonable balance between larger and smaller systems, and will prove workable as long as the Commission adopts liberal partitioning rules and

- rules that encourage cooperative arrangements between co-channel operators on common frequencies.

The reply points out the overwhelming opposition in the record to the proposed new formulas that the Commission suggested to derive 900 MHz service and interference contours. The Companies agree that abandoning the longstanding fixed mileage contours would have a devastating impact.

Based upon substantial support in the record, the Companies advocate the adoption of various mechanisms to guard against speculation and anti-competitive activities in the course of the auction.

The Companies oppose granting any special preferences or set asides to BETRS applicants. The substantial development of BETRS services on certain channels in rural areas will cause the highest and best use of these channels in the surrounding white space to be further BETRS services, meaning that the auction process will serve to preserve and promote BETRS service without special provisions being made.

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Arch Communications Group and Westlink Licensee Corporation (the "Companies"), by their attorney, hereby file their reply to the comments filed in response to the Notice of Proposed Rulemaking (the "NPRM")<sup>1/</sup> in the above-captioned proceeding regarding geographic area licensing for paging. The following is respectfully shown:

**I. Overview**

1. The Companies have reviewed the broad array of comments filed in this proceeding.<sup>2/</sup> Viewed as a whole,

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<sup>1/</sup> FCC 96-52, released February 9, 1996.

<sup>2/</sup> Over 60 comments were filed, many of which reflected the views of multiple companies. Over 50 paging companies were represented, as well as a variety of other interests, including industry associations, engineering firms, etc.

the record provides substantial support for the Companies' positions on most key elements of the geographic licensing proposal for paging which they advocated to serve the public interest.<sup>3/</sup> Additionally, certain commenters offer proposals not addressed in the Arch and Westlink Comments, some of which the Companies support and some of which the Companies oppose in this reply.<sup>4/</sup>

## **II. Broad Support Exists for Many Positions Advocated by the Companies**

2. The Companies will not burden the record rearguing positions developed in detail in their original Comments. Instead, this section briefly sets forth key elements of the Companies' (and, in some instances, the Commission's) proposal, with extensive citations and cross-references to the many comments which took consistent positions. Properly viewed, this recitation reflects an emerging industry consensus on many important aspects of the geographic area licensing plan.<sup>5/</sup>

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<sup>3/</sup> See Joint Comments of Arch Communications Group and Westlink Licensee Corporation on the Notice of Proposed Rulemaking filed March 18, 1996 (the "Arch and Westlink Comments"). See also discussion, infra, at Section II.

<sup>4/</sup> See discussions at Sections II through VII, infra.

<sup>5/</sup> Many commenters, mostly smaller paging operators, oppose the move toward market area licensing, claiming that the current licensing scheme is working and should not be altered. See, e.g., Comments of: DataFon II and ZipCall Long Distance, p. 2; Western Radio, pp. 2-3; Mobilfone Service, (continued...)

3. The record provides substantial support for the following:

a. The public interest will be served by replacing site-by-site licensing with a geographical area licensing plan for paging.<sup>5/</sup>

b. All paging channels are candidates for market area licensing. Some special considerations may apply to the shared PCP channels.<sup>7/</sup>

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<sup>5/</sup> (...continued)

Inc, Rinkers Communications, Metamora Telephone Company, Communications Sales and Service, Inc., ATS Mobile Telephone, Inc., Baker's Electronics and Communications Inc., HEI Communications, Inc., Pigeon Telephone Company, Porter Communications, Inc., Benkelman Telephone Company and Wauneta Telephone Company, Paging Associates, Inc., Wilkinson County Telephone Company, Inc., and B&B Beepers (collectively, the "Hill & Welch Clients"), passim; Sunbelt Transmission & Snider Communications Corporation, pp. 1-2; Pioneer Telephone Company, pp. 2-7; MobileMedia, p. 13; Consolidated Communications Mobile Services, Inc., pp. 4-5; Paging Coalition (Ameritel, Anserphone, CommNet, Radiofone, Teletouch, et al.), p. 5; Rule Communications, pp. 13-14.

<sup>6/</sup> See, e.g., Comments of: AirTouch Paging, pp 2-3; Arch Communications Group and Westlink Licensee Corporation, pp. 3-4; Paging Partners Corporation, p. 2, MTEL, p. 3; Paging Network, pp. 4-6; MetroCall, p. 5,; AT&T Wireless, p. 1; A+ Networks, p. 2; PCIA, pp. 8-12; ProNet, Inc., p. 2; Ameritech Mobile, p. 2; Paging Partners, p. 2, Source One Wireless, p. 2, Huffman Communications, pp. 1-2. The supporters represent a considerable number of the pagers in service due to the broad support among large carriers, but as importantly, include a number of medium and small carriers as well.

<sup>7/</sup> The commenters cited in note 6, supra, generally support market area licensing for all paging bands.  
(continued...)

c. Major Trading Areas ("MTAs") provide an appropriate geographic area for paging licenses,<sup>8/</sup> provided that the Commission adopts liberal partitioning rules<sup>9/</sup> and permits adjacent market operators to participate freely in consortia or coalitions.<sup>10/</sup>

d. Nationwide exclusive PCP channels, including those still under construction,<sup>11/</sup> should be exempted from the auction.<sup>12/</sup>

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<sup>1/</sup> (...continued)

A few argue that the lower band channels and the shared PCP channels present particular problems and require special attention. See, e.g., Comments of: A+ Networks, pp. 9-12; PCIA, p. 17; ProNet, pp. 3-5; Small Business in Telecommunications, pp. 9-10; Blooston & Mordkofsky Clients (Page Hawaii, Lubbock Radio, WT Services, and Mobile Phone of Texas), pp. 1-3. See also discussion infra, at Section VII.

<sup>2/</sup> See, e.g., Comments of: AirTouch Paging, pp. 15-16; Arch and Westlink, pp. 6-7; MTEL, p. 6; American Paging, p. 3; PageNet, pp. 4-6; AT&T Wireless, pp. 2, 5; A+ networks, p. 3; PCIA, p. 17. See also discussion infra, at Section III.

<sup>2/</sup> See, e.g., Comments of: Puerto Rico Telephone, p. 8; MetroCall, p. 15; PCIA, p. 18; ProNet, p. 8; Paging Coalition, p. 21.

<sup>10/</sup> See, e.g., Comments of: Mobilmedia, pp. 25-26; MetroCall, p. 21; Paging Coalition, p. 18.

<sup>11/</sup> See, e.g., Comments of: AirTouch Paging, pp. 8-12; Arch and Westlink, pp. 4-6; Caraway Communications, p. 3; MetroCall, p. 21; PCIA, pp. 12-13; TSR Paging, *passim*.

<sup>12/</sup> AirTouch Paging, pp. 10-12; Arch and Westlink, pp. 4-6; American Paging, p. 2; Pagenet, p. 8; TSR Paging, p. 4.



e. Incumbents who serve large portions (over 66 2/3%) of the population of the licensing area should be eligible to receive the geographic area license without being subject to competing applications.<sup>13/</sup>

f. The auction rules must be crafted to avoid "phantom MXs" by requiring bidders to make minimum upfront payments for every frequency in every MTA on which they want to bid.<sup>14/</sup>

g. A market-by-market, frequency-by-frequency stopping rule is necessary to speed the auctions along.<sup>15/</sup>

h. Winners of market area licenses should be subject to minimum construction requirements. The Commission should add a first year requirement (10% of the population) to the proposed third year (1/3 of the population) and fifth year (2/3 of the population)

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<sup>13/</sup> See, e.g., Comments of: AirTouch Paging, pp. 40-41; Arch and Westlink, pp. 20-22; Source One, p. 3; Paging Partners, p. 3; Mobilmedia, p. 21; PageNet, pp. 36-39; MetroCall, p. 8; A+ Networks, p. 10; PCIA, pp. 28-29; Paging Coalition, p. 8.

<sup>14/</sup> See, e.g., Comments of: AirTouch Paging, pp. 43-45; Arch and Westlink, pp. 22-24; American Paging, p. 5; PageNet, pp. 42-43; PCIA, p. 30; Sunbelt and Snider, p. 3; Pioneer Telephone, pp. 6-7; MetroCall, p. 20; A+ Networks, p. 10.

<sup>15/</sup> See, e.g., Comments of: AirTouch Paging, pp. 34-36; Arch and Westlink, pp. 17-19; MobileMedia, pp. 26-27; American Paging, p. 5; PageNet, p. 43; A+ Networks, pp. 9-10; PCIA, p. 30.

benchmarks.<sup>16/</sup> The relevant contour for compliance purposes should be the interference contour.<sup>17/</sup> The substantial service alternative must be abandoned.<sup>18/</sup>

i. No paging spectrum cap should be imposed.<sup>19/</sup>

j. The new formulas proposed for calculating 929 and 931 MHz service and interference contours should be abandoned as inaccurate, burdensome and disruptive.<sup>20/</sup> The fixed mileage contours in Part 22 of the rules should apply to all 900 MHz paging frequencies.<sup>21/</sup>

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<sup>16/</sup> AT&T Wireless, pp. 2-3, 7 (supports 1/3 population coverage requirement for the first year); AirTouch Paging, p. 17; Arch and Westlink, p. 7; American Paging, p. 4; A+ Networks, p. 5; PCIA, p. 21.

<sup>17/</sup> See discussion infra at para. 8.

<sup>18/</sup> See, e.g., Comments of: AirTouch Paging, pp. 18-20; Arch and Westlink, pp. 8-9; PageNet, p. 33; AT&T Wireless, p. 8; Paging Coalition, p. 4.

<sup>19/</sup> See, e.g., Comments of: AirTouch Paging, p. 30; Arch and Westlink, p. 15; MobileMedia, p. 23; American Paging, p. 5; PageNet, p. 37; MetroCall, p. 18; PCIA, p. 27; ProNet, p. 10; Paging Coalition, p. 17; Ameritech, p. 14.

<sup>20/</sup> See, e.g., Comments of: AirTouch Paging, pp. 21-26; PageMart, pp. 2-7; Liberty Cellular, *passim*; PageNet, pp. 10-16; Metrocall, p. 9; Ameritech Mobile, pp. 3-4.

<sup>21/</sup> See, e.g., Comments of Caraway Communications, p. 2; Source One, pp. 3-4; Paging Partners, p. 4; MTEL, pp. 7-9; Pioneer Telephone, pp. 12-15; Page America, p. 2; A+ Networks, pp. 4-5; PCIA, p. 24; ProNet, p. 15; Paging Coalition, p. 10; Radiofone, p. 7.

k. Incumbents who do not acquire the market area license should be accorded some flexibility to make system changes, pursuant to a partitioning agreement, even if they result in small incursions into unserved area.<sup>22/</sup>

4. Based upon the broad support for the foregoing positions, which are largely consistent with the stated objectives of the Commission in the proceeding, the Companies urge the Commission to include these concepts in the final rules. Additionally, the Companies recommend along with other commenters that the new licensing scheme be put in place immediately in light of the repeated indications by interested parties that time is of the essence.<sup>23/</sup>

### **III. Rules Governing MTA Auctions Can Be Tailored to Mitigate Consensus**

5. While there is substantial support for the use of MTAs as the geographic licensing area, it is not

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<sup>22/</sup> See, e.g., Comments of Caraway Communications, p. 3 (allow expansions into uncovered area of 50 square miles or less); MetroCall, p. 10 (allow expansions by incumbents into contiguous unserved area); ProNet, p. 4 (allow minor relocations and intra BTA expansions by incumbents who serve a large portion of the BTA).

<sup>23/</sup> The urgency of concluding this proceeding quickly was cited by many commenters. See, e.g., Comments of: AirTouch Paging, p. 3; Arch and Westlink, p. 3; A+ Networks, p. 12; PCIA, p. 6.

universal. Some carriers, both large and small,<sup>24/</sup> contend that MTAs are too large in many cases, and argue instead in favor of BTAs,<sup>25/</sup> MSA/RSAs,<sup>26/</sup> BEAs,<sup>27/</sup> or self-defined service territories.<sup>28/</sup> Those opposing MTAs claim that territories this large will create artificial conflicts,<sup>29/</sup> and that the use of MTAs along with the proposed construction benchmarks will force carriers to build in lesser populated areas before consumer demand warrants. The Companies believe these concerns can be fully addressed by making minor changes in the MTA proposal.

6. The concern over artificial conflicts can be eliminated by the Commission adopting liberal rules governing the voluntary partitioning of markets, and bidding consortia. Many commenters have advocated rules that

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<sup>24/</sup> For example, Ameritech, MobileMedia and Metrocall join smaller carriers in questioning the use of MTAs.

<sup>25/</sup> See, e.g., Comments of Source One, p. 3; Consolidated Communications, pp. 4-5.

<sup>26/</sup> See, e.g., Comments of Paging Partners, p. 3.

<sup>27/</sup> See, e.g., Comments of Small Business in Telecommunications, p. 16.

<sup>28/</sup> See, e.g., Comments of: Hill & Welch Clients, p. 2; Sunbelt and Snider, p. 3; Mobilmedia, p. 13.

<sup>29/</sup> For example, two carriers operating on a common frequency at opposite ends of an MTA would be forced to battle over the white space or risk being forever foreclosed from expansion, even if the only areas of real interest are those proximate to their current operations. See, e.g., Comments of Pioneer Telephone, pp. 6-7; Sunbelt and Snider, p. 3.

encourage and facilitate cooperative arrangements by which MTAs are partitioned to conform to actual market conditions.<sup>30/</sup> The Companies recommend that partitioning be allowed on any mutually agreeable basis (e.g., along BTA boundaries, county boundaries, MSA/RSA boundaries, state lines or any other subdivision agreed by the parties to meet service objectives) either before or after (but not during) the auction.

7. The Commission also needs to make it clear in adopting rules that it expects and encourages co-channel operators in adjacent markets to cooperate to fill in white space between their respective systems, either by partitioning, forming joint ventures or bidding consortia, or entering into traffic exchange agreements. In the highly developed paging industry, such arrangements must be viewed as pro-competitive because they foster wide-area service and reduce the need for co-channel separations that create dead zones of coverage. Cooperative arrangements between incumbent co-channel operators should not be considered territorial divisions of markets or combinations in restraint of trade, and the Commission must be careful to avoid overly broad statements regarding the implications of the antitrust laws which will have a chilling effect on legitimate transactions.

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<sup>30/</sup> See note 9, supra.

8. With regard to the concern that MTA-based grants will force premature construction, the Companies submit that this concern is best resolved by clarifying that the population coverage requirements will be measured with reference to composite interference contours<sup>31/</sup> -- as opposed to the service area contours -- of constructed and operating stations.<sup>32/</sup> By defining the area of coverage in this manner, the Commission will substantially mitigate the concern expressed by small carriers that the combination of MTA territories with construction benchmarks will force them to build in areas where need has not yet developed. At the same time, the Commission will be able to retain MTA licensing, which will be much less cumbersome and more efficient than moving to a smaller market size.

9. With the foregoing modifications, the Companies believe the public interest will be best served by maintaining MTAs as the market area for paging. Use of smaller market areas would result in too many auctions, and

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<sup>31/</sup> See, e.g., Pagenet Comments, p. 40 which discuss the rationale for using the interference contour as the coverage benchmark.

<sup>32/</sup> Several commenters do not clearly specify whether their support for the population coverage requirement is based upon the service contour or the interference contour. The Companies know from conversations with other carriers, however, that most use the interference contour as the relevant contour for system planning purposes, which supports the use of the interference contour as the construction benchmark as well.

too great a potential for delay. And, while it may be that "one size doesn't fit all" in terms of current paging footprints, MTAs do strike a balance between large and small systems<sup>33/</sup>, particularly if the aforementioned flexibility is worked into the MTA scheme.

10. The concern that an MTA-based licensing scheme will force incumbents to buy large territories in which they have no serious interest also can be addressed by allowing limited incumbent expansion rights as suggested by many commenters. The Companies would have no objection to allowing de minimis extensions of contour into the white space of a market area licensee by an incumbent operating on the same channel, pursuant to a partitioning agreement and provided that no interference to an existing site was proposed. Various alternatives are suggested by commenters, including (a) a 40-mile rule,<sup>34/</sup> (b) a 50% overlap rule,<sup>35/</sup> (c) a rule allowing contiguous expansions within a

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<sup>33/</sup> Notably, some commenters have proposed that certain channels be available on a larger than MTA basis. See, e.g., Comments of Caraway Communications, p. 5, and Preferred Networks, p. 20 which advocate adoption of the narrowband PCS plan with some nationwide, some regional and some MTA channels. See also Comments of AirTouch Paging, p. 16 and Arch and Westlink, p. 7 which advocate that recaptured 929 MHz nationwide channels be auctioned on a nationwide basis.

<sup>34/</sup> See, e.g., Comments of: MetroCall, p. 11; Paging Coalition, p. 2; Ameritech, p. 17.

<sup>35/</sup> See, e.g., Comments of Western Radio, pp. 3-4.

BTA if the incumbent already serves a high percentage of the BTA population<sup>36/</sup>, and (d) other formulations.<sup>37/</sup> These suggestions, if adopted, would mitigate the problem of having an incumbent "frozen in place" if it doesn't bid on the market area license.

#### **IV. The Proposed Formulas for 900 MHz Contours Have Not Withstood Scrutiny**

11. The Companies urged the Commission to abandon its proposed new formulas for determining service and interference contours for 900 MHz channels. The objection was lodged on substantive and procedural grounds based upon considerations of law and policy.<sup>38/</sup> The comments of others resoundingly affirm the conclusion that the formulas themselves are seriously flawed, and their use would be disastrous for the industry.<sup>39/</sup>

12. This formula issue was considered by several parties to be of sufficient importance to be a (if not the) major focus of their comments. PageNet devotes substantial attention to the matter, and provides detailed results from

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<sup>36/</sup> See, e.g., Pronet Comments, p. 14.

<sup>37/</sup> See, e.g., Comments of: Carraway, p. 3 (allow expansions into a 50 square mile unserved area); ProNet, p. 13 (minor relocations allowed upon loss of site); Rule Radio, pp. 15-16 (allow expansion sites within 25 miles in major markets and 100 miles in rural areas).

<sup>38/</sup> Arch and Westlink Comments, pp. 10-14.

<sup>39/</sup> See notes 20 and 21, supra.



real world propagation studies demonstrating that the new formulas are grossly inaccurate and will result in interference.<sup>40/</sup> Ameritech leads off its Comments with a stinging technical analysis of the formula which is buttressed by practical operational concerns as well.<sup>41/</sup> Comp Comm, one of the leading engineering firms in the wireless arena, devotes its entire Comments to a detailed recitation of the flaws in the proposal.<sup>42/</sup>

13. The comments also raise serious questions regarding the lawfulness of the retroactive imposition of substantially reduced contour protection on existing licensees. PageNet offers a cogent analysis indicating that an unconstitutional "taking" would occur.<sup>43/</sup> Others cite the legal standards governing retroactive rulemaking and the involuntary modification of licenses as a legal bar to the proposal.<sup>44/</sup> Whether or not the Commission accepts these legal arguments, it is apparent that imposing the formulas will lead to protracted litigation. It would be a travesty for the Commission to embroil the industry in a controversy of this nature when the existing fixed mileage contours in

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<sup>40/</sup> PageNet Comments, pp. 18-27.

<sup>41/</sup> Ameritech Comments, pp. 2-7.

<sup>42/</sup> Comp Comm Comments, passim.

<sup>43/</sup> PageNet Comments, pp. 18-27.

<sup>44/</sup> See, e.g., Comments of: Carraway Communications, p. 4; Paging Coalition, p. 14; Ameritech, p. 6.

Part 22 of the rules, which have served the public so well, could be maintained with unanimous industry support.

**V. Safeguards Against Speculation and Anti-Competitive Activities Are Necessary**

14. The Comments reflect recurring concerns by a diverse group of carriers that the market area auction rules must be carefully crafted to deter speculative bidding activities and potentially anti-competitive conduct. In terms of speculation, the concern is that insincere applicants will buy white space simply in the hope of subjecting co-channel carriers to "green mail".<sup>45/</sup> The competitive concern is that an aggressive, well-heeled competitor will buy white space in order to block a carriers' expansion or to force a sale.<sup>46/</sup> There are, however, several promising methods offered to deter this sort of activity. The Companies, and others, proposed: (a) exempting carriers who serve high percentages of the

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<sup>45/</sup> See, e.g., Comments of: PagePrompt USA, p. 4; Ameritech, p. 9.

<sup>46/</sup> See, e.g., Comments of: AirTouch Paging, pp. 42-43; PagePrompt USA, pp 3-4; Pioneer, pp. 11-12; A+ Networks, p. 11; Paging Coalition, p. 4; Ameritech, p. 9. The Commission must take this competitive concern seriously when carriers as financially able as AirTouch and Ameritech foresee potential abuses. The problem was aptly described by the Paging Coalition who fear that an aggressive competitor will become a "slumlord" by buying the white space of an adjoining market operator and preventing them from making system improvements.

population from competing applications;<sup>47/</sup> (b) separate upfront payments on every channel in every MTA in which an applicant seeks to bid;<sup>48/</sup> (c) frequency-by-frequency stopping rules;<sup>49/</sup> (d) a one-year construction benchmark of 10% of the population;<sup>50/</sup> and (e) a death penalty for defaulting auction winners.<sup>51/</sup> These proposals will, in combination, act as adequate safeguards against speculation and anti-competitive bidding.<sup>52/</sup>

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<sup>47/</sup> See note 13, supra.

<sup>48/</sup> In this regard, the PageNet proposal of a sliding scale with higher per channel minimums for large (top 10) markets (e.g., \$10,000) and lesser markets (e.g., \$5,000) has considerable merit. On reflection, the Companies recommend a three-tiered structure of minimum per channel payment requirements: for markets 1 to 10 - \$10,000; for markets 10 to 30 - \$5,000 and for all other markets - \$2,500.

<sup>49/</sup> See note 15, supra. Many commenters support the substitution of two rounds for one round as the termination point, as suggested by the Companies.

<sup>50/</sup> See note 16, supra.

<sup>51/</sup> The Companies disagree with PageMart's view expressed at page 8 of its comments that an incumbent who fails to meet the benchmark should be able to retain authorizations for contiguous sites to the grandfathered system. A more severe penalty is needed to assure that applicants only acquire licenses in areas where they seriously intend to build a ubiquitous system.

<sup>52/</sup> The Companies oppose the proposal by A+ Networks that there should be restrictions on the ability of a carrier to buy out a competitor after acquiring the white space of the competitor's channel. See A+ Networks Comments, p. 11. It would be too difficult to craft rules that distinguish legitimate from illegitimate transactions.

**VI. BETRS Can Be Preserved  
Without Special Preferences**

15. Several commenters support the continuing need for the BETRS service and ask the Commission to shield BETRS service providers from competing applications or bids.<sup>53/</sup> The Companies oppose giving BETRS applicants special treatment.

16. The whole purpose of the auction is to allow the marketplace and not the Commission to decide the use to which spectrum should be put. The Companies fully expect the auction of wireless spectrum at issue in this proceeding to demonstrate that there are certain channels in rural areas that are best devoted to BETRS<sup>54/</sup>. It would not be appropriate, however, to dictate that result by exempting BETRS applicants from competing bids.

17. The Companies note that there are an ever-increasing number of alternatives available for providing telephone service in rural areas including conventional two-way, cellular, PCS and mobile satellite services. Indeed, in the PCS services, rural telcos have enjoyed preferences, and appear well poised as a result to provide services in

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<sup>53/</sup> See, e.g., Comments of: Puerto Rico Telephone, pp. 3-4; Border to Border, pp. 2-3; Rule Radio, p. 24; Nucla Naturita Telephone, p. 3; OPASTCO, pp 5-6.

<sup>54/</sup> Bidders at auction will determine before they bid the existing uses being made of channels, and will likely steer clear of channels that are already deployed extensively in rural areas and devoted to BETRS.

rural areas. This being the case, no need for special treatment of BETRS can be demonstrated here.

**VII. The Commission Should Consider the  
Fate of the Shared PCP Channels  
in a Subsequent Proceeding**

18. No consensus emerges from the Comments on the best way to treat the shared channels.<sup>55/</sup> Some licensees want to maintain the status quo. Others favor auctions for some or all of the shared channels. Still others advocate an earned exclusivity plan, not unlike the current 929 MHz procedures, which avoids auctions in most cases.

19. In reviewing the comments, the Companies find the record to be incomplete. The number of licensees, the scope of their existing systems, the extent of future demand for these channels, all are uncertain. This being the case, the Companies join those who recommend that any move to market area licensing for these channels be deferred for the time being.<sup>56/</sup> The freeze should be lifted to allow incumbents to add sites to existing systems operating on the same frequency.

20. Filings by newcomers should not be allowed for the time being. The FTC has filed comments in this

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<sup>55/</sup> Compare Comments of AirTouch Paging, pp. 13-15; TeleBeeper of New Mexico, p. 2; Preferred Networks, pp. 9-12; PCIA, p. 14; ProNet, pp. 3-5; Teletouch Licenses, pp. 4-5; Small Business in Telecommunications, p. 9; Blooston & Mordkofsky Clients, pp. 1-3.

<sup>56/</sup> See, e.g., PCIA Comments, p. 17.

proceeding that document a considerable amount of application fraud that has taken place in paging, particularly with regard to the shared channels.<sup>57/</sup> This history raises additional concerns over a "business as usual" approach on the shared channels, and justifies lifting the freeze only with respect to incumbents.

#### **VIII. Conclusion**

The premises having been duly considered, the Companies respectfully request that the Commission adopt final rules governing the geographic licensing of paging systems consistent with the foregoing reply comments.

Respectfully submitted,

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<sup>57/</sup> FTC Comments, passim.

**Certificate**

I, Yvette Omar, a secretary with the law firm of Paul, Hastings, Janofsky & Walker, hereby certify that a copy of the foregoing **Joint Reply Comments of Arch Communications Group and Westlink Licensee**, was sent via first class U.S. mail, postage prepaid, or hand-delivered on this 2nd day of April 1996, to the following:

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